



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 05.09.1995
COM(95) 408 final - SYN 500

Re-examined proposal for a

COUNCIL REGULATION (EC)

on operations to promote tropical forests

(presented by the Commission pursuant to Article 189 c (d)
of the EC Treaty)

EXPLANATORY MEMORANDUM

The scale of the threat to the tropical forests and the need for concerted international action within an approach linking the environment and development have been stressed by all Community institutions and were confirmed at the recent Rio Conference.

Against this background, action by the Community, complementing that of the Member States, will help achieve the objectives pursued and mobilize the requisite resources.

This Regulation sets out the objectives and procedures for such action, which is aimed at helping preserve tropical forests and manage them sustainably.

Commission opinion on the amendments adopted by the European Parliament during the second reading with regard to the Council's common position with a view to adopting a Regulation on operations to promote tropical forests (00/0500(SYN))

On 15 June 1985 Parliament adopted 29 amendments.

1. The Commission incorporated the following amendments in its revised position:

- No 2 (geographical area or climate zone)
- No 3 (development aid and trade instruments)
- No 6 (substantial resources for significant protection of tropical forests)
- No 7 (compromise A: amount of financial reference)
- No 9 (five-year reviews)
- No 10 (definition of tropical forests)
- No 11 (indigenous peoples)
- No 13 (qualitative and quantitative conservation)
- No 15 (sustainable management)
- No 17 (participation of forest peoples)

2. The Commission incorporated the following amendments, with certain minor changes to the wording:

- No 8 (setting-up of a permanent framework to encourage such activities and ensure consistency)
- No 18 (promotion of sustainable exploitation of tropical forests, mainly outside primary forests)
- No 22 (increased consultations rather than uniform position)
- No 29 (harmonized methods rather than criteria designed to ...)
- No 30 (funding guidelines)
- No 31 (evaluation)

Parts of the following amendments were incorporated:

- No 20 (minus the reference to the consent of local people, which is already broadly covered by Amendment 17 incorporated into Article 4(1) providing for the participation of the forest peoples concerned)
- No 25 (compromise B: minus the rate of 60%, left out because absolutely all the operations funded must have the support of local people and the assistance of the local authorities)
- No 37 (minus the aspects relating to the introduction and implementation at Community level of a system for evaluating and monitoring certificates - see 3 below)

3. The Commission is unable to include Amendment 28 (evaluation reports) which is broadly covered by the provisions of Articles 12 and 14 or those concerning:
- trade issues, such as import restrictions or the introduction of a Community certification system (Amendments 1, 4, 5, 23)
 - actions within the scope of the Commission's powers of initiative or organization (Amendments 23, 24, 27)
 - subjects too general and broad to be implemented easily (Amendments 12, 14, 19)

Re-examined proposal for a
COUNCIL REGULATION (EC)

on operations to promote tropical forests

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 130s and 130w thereof,

Having regard to the proposal from the Commission,¹

Acting in accordance with the procedure of Article 189c of the Treaty,²

Having regard to the opinion of the Economic and Social Committee,

Whereas the Commission communication to the Council of 16 October 1989 on "The conservation of tropical forests: the role of the Community"³ sets out broad guidelines for Community action in this sphere;

Whereas the resolution of the Council of Ministers for Development Cooperation of the 29 May 1990 on "Tropical forests: development aspects" established a basis for the use of development instruments in tropical forest conservation;

Whereas the European Parliament has expressed, in many parliamentary resolutions, concern over the destruction of tropical forests and the consequences for forest peoples;

Whereas the Dublin European Council of June 1990 called for a programme of action to be drawn up to counteract the threat to tropical forests;

Whereas the Community and its Member States adopted the Rio Forest Principles, the Agenda 21 action programme and the Conventions on Biological Diversity and Climate Change;

Whereas the Community's operations to promote tropical forests form part of its objectives on the conservation of forests, in whatever geographical area or climate zone they may be situated;

¹ OJ No C 78, 19.3.1993, p.8; OJ No C 201, 13.7.1994, p.15.

² Opinions of the European Parliament of 29 October 1993 (OJ No C 315, 22.12.1993, p.644) and 15 June 1995 (OJ No ..., ...).

³ OJ No C 264, 16.10.1994.

Whereas the Community intends to expand its actions to promote the conservation of tropical forests in all appropriate ways, within the context, *inter alia*, of its environment policy and of its new development cooperation policy, laid down in Articles 130u to 130y of the Treaty, and using the relevant instruments of development assistance and trade;

Whereas, by virtue of their special knowledge, the forest peoples play a key role in managing the environment, in particular with regard to the conservation of tropical forests;

Whereas the ecological and socio-economic conditions of tropical forests vary according to regions and countries;

Whereas a Community action, complementing Member States' actions, will facilitate a better realization of the objectives pursued;

Whereas existing financial instruments available to the Community for supporting the conservation and sustainable development of forests could usefully be complemented;

Whereas a substantial commitment of resources is required to have a significant impact on the protection of tropical forests;

Whereas provision should be made for funding the actions referred to in this Regulation;

Whereas an amount of ECU 250 million is proposed as a financial reference, illustrating the will of the legislative authority, for the implementation of the actions covered by this Regulation for an initial five-year period (1995 to 1999), in so far as this financial reference is consistent with the Financial Perspective ceilings in heading 4;

Whereas it is therefore necessary to set up a properly thought-out permanent framework in order to encourage these actions and to guarantee a cohesive policy;

Whereas the Council and the European Parliament will consider, every five years, the mechanisms for funding of operations to promote tropical forests, taking account of the provisions of the ACP-EEC Convention in force and the framework regulation concerning cooperation with developing countries in Asia and Latin America;

Whereas rules for implementation, and in particular the form of action, the recipients of the aid, and decision procedures should be laid down,

HAS ADOPTED THIS REGULATION:

Article 1

The Community shall support actions to promote the conservation and the sustainable management of tropical forests and the associated biological diversity in accordance with the criteria and procedures provided for in this Regulation.

Article 2

For the purposes of this Regulation:

1. "Tropical forests" shall be defined as those natural and semi-natural tropical or subtropical forest ecosystems, whether in an undisturbed (primary) or a disturbed (secondary) state, which are characterized by a predominance of trees, in both dry and humid areas. The areas concerned are those found within the tropics and subtropics delimited by the 30th northern and southern parallels.
2. "Conservation" shall be considered to include all actions to preserve and rehabilitate tropical forests, and specifically those actions which are designed to protect or restore the biological diversity, including ecological functions, of the forest ecosystem in question and at the same time secure as far as possible its current and future utility value for mankind and in particular for forest peoples.
3. "Sustainable forest management" is understood as the stewardship and use of forests and forest lands in a way, and at a rate, that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfil, now and in the future, relevant ecological, economic and social functions, at local, national, and global levels, without causing any damage to other ecosystems.
4. "Sustainable development" shall be considered as the improvement of the quality of life and welfare of the relevant populations within the limits of the capacity of the ecosystems by maintaining natural assets and their biological diversity for the benefit of present and future generations.
5. "Forest peoples" shall be defined as indigenous peoples who inhabit the forest or claim it as their home and any people who live in or near the forest and have traditionally been directly and to a large extent dependent on the forest.

Article 3

1. Pursuant to this Regulation, the Community shall provide financial support or technical expertise for actions which support and encourage the efforts of developing countries and their regional organizations to conserve and sustainably manage their tropical forests, in the context of the sustainable development of those countries and regions.
2. The recipients of aid and partners in cooperation may include not only states, regions and overseas countries and territories, but decentralized authorities, regional organizations, public agencies, local or traditional communities, private industries and operators, including cooperatives and non-governmental organizations and representative associations of forest peoples, which include the conservation of tropical forests among their stated objectives or regular activities.
3. Special consideration shall be given to actions in support of the conservation of forests, as regards both quality and quantity, which are considered to be of importance for local effects such as the protection of watersheds and biotopes, the prevention of soil erosion and the restoration of degraded areas, and for global effects, such as climate change and loss of biological diversity.

Article 4

1. The priority given to specific actions will be determined according to the needs of each country as reflected in regional and national development and environment policies relating to forests and according to Community cooperation priorities. Particular consideration, however, shall be given to actions that promote the following:
 - (a) conservation of primary tropical forests and their biodiversity and regeneration of tropical forests which have been damaged, supported by analysis of the underlying causes of deforestation and taking into account differences between countries and regions and measures to address them;
 - (b) sustainable management of forests designated for the production of timber and other products, but excluding commercial logging operations in primary tropical forests, except those which are community-based, on a small scale, sustainable, environmentally sound and implementing sustainable forest management;
 - (c) the definition and development of certification systems, combined with independent assessment systems, for timber produced from tropical forests according to sustainable forest management principles as part of internationally harmonized certification systems envisaged for all kinds of timber and forest products;

- (d) provision of prior information to forest peoples, followed by their participation in and support for the identification, planning and implementation of actions;
 - (e) capacity-building to address the needs for training schemes for local populations, forest managers and researchers, for legislation, for increased political and social support and institutional strengthening and for organizations and associations active in forest conservation
 - (f) a strategic and adaptive research policy aimed at supplying the knowledge required for the conservation and sustainable management of forests and also for the implementation of research monitoring activities in the framework of projects and programmes;
 - (g) development of buffer zones to assist the conservation or regeneration of tropical forests, as part of a broader land utilization plan;
 - (h) development and implementation of forest management plans aimed at conserving tropical forests and promoting sustainable exploitation of timber and other forest products, mainly outside primary forests.
2. The Community shall require actions carried out pursuant to this Regulation to be preceded by reports on their ecological, social, economic and cultural impact, with specific qualitative or quantitative objectives. Where applicable, these actions shall be evaluated with the participation of local people.

The above shall also apply to evaluations of the actions carried out, for which purposes specific indicators shall be given in the reference conditions for the action which is to be supported. The indicators shall be both quantitative and qualitative.

3. The Community shall, in respect of the various Community policy areas which have a potential direct impact on the conservation of tropical forests, develop and apply the instruments required to prevent the policy pursued or planned from having a negative impact and, where possible, to contribute to the conservation of tropical forests.
4. Actions carried out pursuant to this Regulation shall be coordinated with, and may provide support for, national and international programmes and actions concerned with conservation and sustainable management of tropical forests, such as the Tropical Forest Action Plan and the International Tropical Timber Organisation, provided these programmes and actions are in accordance with the principles and objectives laid down in this Regulation.
5. Wherever possible, operations shall be carried out within the framework of regional organizations and international programmes of cooperation in the context of increased consultations with a view to contributing to the formulation, at international level, of a global policy on the conservation of forests.

Article 5

Cofinancing with Member States, or with multilateral, regional or other organizations shall be sought through greater coordination. As far as possible, the Community nature of the aid shall be maintained.

Article 6

Community funding shall be in the form of non-reimbursable grants.

Article 7

1. Community funding of the actions referred to in Article 3 shall cover an initial five-year period (1995 to 1999). The financial reference, illustrating the will of the legislative authority, for Community funding for the implementation of these actions during this period shall be ECU 250 million.
2. The budget authority shall determine the appropriations available for each financial year, account being taken of the principles of sound financial management referred to in Article 2 of the Financial Regulation applicable to the general budget of the European Communities.

Article 8

1. Financial and technical assistance may cover all foreign currency costs and local costs for carrying out projects and programmes, including, whenever necessary, integrated programmes and sectoral projects.
2. Maintenance and operating expenses for economic cooperation operations, training and research programmes and development projects and programmes may, in particular, be covered. However, except for training and research programmes, such expenses may be covered as a general rule only at the launching stage and in gradually decreasing amounts.
3. Systematic efforts shall be made to seek contributions, particularly in financial form, from partners (countries, local communities, undertakings, individual recipients) as far as their means permit and according to the nature of each operation.
4. The payment of taxes, duties and charges shall be excluded from Community financing.

5. Study costs and the short- and long-term use of experts to assist the recipients and the Commission in devising general policies, identifying and preparing operations and monitoring and evaluating them shall normally be covered by Community funds, either as part of the financing for individual operations or separately.

Article 9

1. Participation in invitations to tender and purchasing and other contracts shall be open on equal terms to all natural or legal persons of the Member States.
2. With regard to financial and technical assistance, the participation referred to in paragraph 1 shall usually be extended to the recipient state, and may also be extended, case-by-case, to other developing countries.
3. In exceptional cases which are duly justified, other countries of origin may be allowed for specific components.

Article 10

Projects and programmes for which Community funding exceeds ECU 2 million in the case of an ACP State and ECU 1 million in the case of an Asian or Latin American country, as well as any substantial modifications which exceed 20% of the amount initially agreed, shall be adopted according to the procedure laid down in Article 11(2).

Article 11

1. The Commission shall administer tropical forest cooperation activities.
2. The Commission shall be assisted, as appropriate, by the Committee set up pursuant to Article 15 of Council Regulation (EEC) No 443/92 of 25 February 1992 on financial and technical assistance to, and economic cooperation with, the developing countries in Asia and Latin America⁴ or by the Committee set up pursuant to Article 21 of the Internal Agreement on the financing and administration of Community aid under the Fourth ACP-EEC Convention.⁵
3. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a

4 OJ No L 52, 27.7.1992, p.1.

5 OJ No L 229, 17.8.1991, p.288.

proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of one month, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 12

The Commission shall submit to the European Parliament and the Council an annual report with an assessment of the implementation of this Regulation. The report shall set out the results of implementation of the budget as regards commitments and payments and presenting the projects and programmes financed during the year. The report shall contain, as far as possible, information on the funds committed at national level during the same financial year. It shall also contain specific, detailed information (undertakings, nationality, etc.) on the contracts awarded for the implementation of the projects and programmes.

Regular evaluation reports shall be submitted to the Committee mentioned in Article 11.

Article 13

This Regulation shall be implemented under an approach coherent with the general principles laid down in Council Regulation (EEC) No 443/92 and in the current ACP-EEC Convention and under common criteria at all stages of the project cycle from identification to evaluation, according to harmonized methods.

Funding guidelines shall be published for organizations which intend to submit project proposals under this Regulation; the guidelines will specify the criteria for the selection and evaluation of projects.

Article 14

This Regulation shall enter into force on the day following its publication in the Official Journal of the European Communities.

It shall apply until 31 December 1999.

In 1997 the Commission will present to the Council and Parliament an overall evaluation of the actions funded by the Community in the field of tropical forests accompanied by a proposal extending or revising this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels ...

FINANCIAL STATEMENT

1 TITLE OF OPERATION

Operations to promote tropical forests

2 BUDGET HEADING INVOLVED

B7-5041

3 LEGAL BASIS

- EC Treaty, Articles 130r and 130s (concerning the environment), and 130u and 130w (concerning development).
- Council Regulation (EC) No .../95 of ... on operations to promote tropical forests (Commission proposal of 26 February 1993, OJ No C 78, 19.3.1993, p.8 - and of 10 June 1994, OJ No C 201, 23.7.1994, p.15. Common position adopted by the Council on 23 January 1995).
- Regulation scheduled for adoption by the Council in October 1995.

4 DESCRIPTION OF OPERATION

4.1 General objective

Tropical forests play a crucial environmental role both globally (in terms of biodiversity, climatic change etc.) and locally (in terms of the prevention of soil erosion etc.). These functions are, however, increasingly under threat from over-exploitation of these forests owing to a multitude of factors (including demographic growth, need for farmland, logging and the extraction of other resources).

At the Rio Conference of June 1992, all participants committed themselves to the conservation and sustainable management of forests. Through operations funded under this budget heading, the Community encourages the developing countries, and in particular local communities, in their sustainable development efforts.

4.2 Period covered

The Commission's revised proposal covers an initial period of five years (1995-99), in so far as this financial reference is consistent with the Financial Perspective ceilings in heading 4.

5 CLASSIFICATION OF EXPENDITURE OR REVENUE

5.1 Non-compulsory expenditure

5.2 Differentiated appropriations

6 TYPE OF EXPENDITURE OR REVENUE

Grant

Systematic efforts will be made to seek contributions, particularly in financial form, from the beneficiaries. Cofinancing will also be sought from the Member States or multilateral, regional or other organizations; for example, the largest tropical forest programme, which concerns the Brazilian forests, is a multilateral programme coordinated by the World Bank and financed by the Community and various other donors, among them Germany, the UK, France, Japan and the USA.

In exceptional cases, the grant may cover the entire cost of an operation.

Interest subsidy

None.

Should the operation prove an economic success, is there provision for all or part of the Community contribution to be reimbursed?

No.

7 FINANCIAL IMPACT

7.1 Method of calculating total cost of operation (definition of unit costs)

The volume of funding has been calculated on the basis of the needs identified and the principles of sound financial management, within the limits set by the budgetary authority; the cost of each project is calculated on a case-by-case basis following identification and appraisal.

Personnel costs are calculated on the basis of unit prices; equipment, operating and travel costs are calculated according to real costs and paid on presentation of documentary proof.

7.2 Itemised breakdown of cost

Breakdown	1995	1996	1997	1998	1999	TOTAL
Projects	38	40	42	42	42	204
Instruments	12	10	8	8	8	46
TOTAL	50	50	50	50	50	250

7.3 Indicative schedule of appropriations

(ECU millions)

	1995	1996	1997	1998	1999	TOTAL
Commitment appropriations	50	50	50	50	50	250
Payment appropriations						
1995	30					
1996		30				
1997			50			
1998				50		
1999 and following financial year					90	
TOTAL	30	30	50	50	90	250

8 FRAUD PREVENTION MEASURES; RESULTS OF MEASURES TAKEN

There will be regular audits by the Court of Auditors and Financial Control. Technical audits will be conducted by Commission officials assisted by independent experts.

The verification of grants or the receipt of the services, preparatory, feasibility and evaluation studies ordered is performed by Commission officials before payment, taking account of the contractual obligations and the principles of value for money and sound financial or general management. Fraud prevention measures (auditing, reporting etc.) are written into agreements or contracts concluded between the Commission and recipients of payment.

9 ELEMENTS OF COST-EFFECTIVENESS ANALYSIS

9.1 Specific and quantified objectives; target population

Specific objectives: relationship to the general objective

The conservation and sustainable management of tropical forests involve measures to enhance operational capacities, training, research etc. Conducted in close liaison with the relevant national and local authorities, these operations take the form of practical projects and the development of instruments designed to promote conservation and sustainable management (e.g. certification of tropical timber).

The priorities are:

- sustainable methods of forest management;
- design and application of timber certification systems;
- actively involving the local population;
- capacity building (training, legislation, institutions etc.);
- application of research results;
- the introduction of buffer zones and management plans.

Target population

The operations directly target communities living in and around forests. The direct beneficiaries include not only central and regional government but local authorities, regional organizations, government agencies, local or traditional communities and NGOs.

9.2 Grounds for the operation

Need for Community financial aid

Supplementing measures by the Member States, Community financial aid will help counter the threat to the tropical forests by supporting aid operations in support of efforts by the developing countries.

Choice of ways and means

(a) This Regulation is a vital component of the strategy on tropical forests (which also includes the development of trade incentives, investment promotion and technology transfers).

(b) The operations are consistent with the ALA developing countries' development programmes and the provisions of the Lomé Convention.

(c) Apart from specific measures concerning tropical forests, the aid operations in question are intended to act as a catalyst, in particular through the development of pilot and demonstration projects.

Main factors of uncertainty which could affect the specific results of the operation

The chief factor is the late recognition of the need to conserve tropical forests and the developing countries' lack of operational resources.

9.3 Monitoring and evaluation of the operation

Performance indicators selected

The principal indicators used concern:

- the surface area of the tropical forests concerned
- the establishment of conservation areas
- the drafting and implementation of management plans and operational capacities
- grassroots participation
- consistency with local, national and international measures.

Details and frequency of planned evaluations

Operations are monitored by the Commission in close liaison with the external delegations by means of:

- regular reports;
- field visits;
- mid-term evaluations in the case of some pilot projects;
- ex-post evaluation reports on representative projects.

Assessment of the results obtained

The proposed Regulation provides for the Commission to submit an annual report on its implementation. The Commission has also undertaken to provide the Council, by the end of this year, with a report on the operations financed under heading B7-5041 in the period 1992-95 and, by the end of 1997, with an evaluation of all operating concerning tropical forests.

10 ADMINISTRATIVE EXPENDITURE

The administrative resources needed will be allocated by the Commission in its annual decision on the allocation of resources, taking particular account of the increases in staffing and funding approved by the budgetary authority.

10.1 Impact on staffing

The requisite officials will be drawn from the current staff of Directorates-General I and VIII.

Types of job		Staff assigned to the operation's administration		Of whom		Duration
		Permanent	Temporary	From existing resources of DG or service concerned	From recourse to additional resources	
Officials or temporary staff	A B C	2	1	3	-	5 years
Other resources						
Total		2	1	3		

10.2 Overall financial impact of increase in staffing

Not applicable

10.3 Increase in other operating costs as a result of the operation

The costs for the initial five-year period total ECU 215 200 and will be covered from current resources. This sum consists of ECU 180 000 in mission expenses under Article A/130 (ECU 12 000 a year per A official/temporary agent) and ECU 32 500 in meeting expenses under Article A/250 (2 meetings of 4 experts per year at a cost of ECU 880 per expert per meeting).

ISSN 0254-1475

COM(95) 408 final

DOCUMENTS

EN

14 11

Catalogue number : CB-CO-95-447-EN-C

ISBN 92-77-92870-0

Office for Official Publications of the European Communities

L-2985 Luxembourg

17